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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,750	10/17/2003	Paul J. Mollinger	CPS1540-241	1991
8698	7590	09/20/2006	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			MAGUIRE, LINDSAY M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,750

Applicant(s)

MOLLINGER ET AL.

Examiner

Lindsay M. Maguire

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date
:3/15/04,10/29/04,3/7/05,5/11/05,5/31/06,6/2/06.

DETAILED ACTION

This Final Office Action is in response to the application filed on October 17, 2003 and the amendments filed on June 26, 2006.

Drawings

The drawings are objected to because writing in figures, other than the labeling of parts by numbers, is not permissible. Amended drawing sheets for Figures 12, 13, and 15 where all of the dimensions, titles, extraneous writing, etc. have been removed is required, or Applicant can cancel those three figures.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Certain Observations

It has been observed that claims 16 and 17 contain lack of antecedent basis issues with regards to the phrase "said foam" in line 1 of both claims. Since "foam" has not been set forth in any of the previous claims that 16 and 17 depend from, the recitation "said foam" is considered improper. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-16 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,321,500 (Manning et al. '500) in view of U.S. Pat. No. 4,492,064 (Bynoe '064).

Regarding claims 1-9 and 25, Manning et al. '500 disclose in figure 4, a paneling unit comprising a siding panel (30) having an attachment strip (32), and a backing portion having a bottom portion in a rear side defining a channel (20). Manning et al. '500 disclose a foam panel with a solid surface but does not disclose that the panel has groove members. Bynoe '064 discloses roofing panels that consist of hydraulically connected drainage and connector grooves (see Figure 1; column 4, lines 30-63).

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Where each of the drainage and connector grooves are for the drainage of liquid and extend from one edge of the backing portion to another and where the connector and drainage grooves on the first portion of the backing system form at least a segment of a continuous groove with a surface of an adjacent backing portion when installed adjacent to a structure covered by a panel unit. Therefore, it would have been obvious to one of ordinary skill in the art to modify the backing panels of Manning et al. '500, in view of the teachings of Bynoe '064, to include drainage and connector grooves for such a basic reason as to allow moisture drainage and to aid in the evaporation of moisture through the insulation panels to the outside atmosphere.

Regarding claims 10 and 12, Manning et al. '500 as modified, disclose a paneling unit where the orientation of the drainage grooves are generally downward relative to an installed position of the paneling unit and the connector groove is approximately horizontal along a length of the plurality of drainage grooves.

Regarding claims 15, 16, and 18-20, Manning et al. '500, as modified, disclose a paneling unit as described in claim 1, where the backing portion is comprised of a foam made of expanded or extruded polystyrene (column 2, lines 11-13) and where the siding panel is comprised of plastic, vinyl, or plastic vinyl material including a cellulosic filler (column 2, lines 19-30). Although Manning et al. '500 do not disclose that the siding panel comprises cellulosic filler, it is known to of ordinary skill in the art that thermoplastics include cellulose.

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Regarding claims 21-23, Manning et al. '500, as modified, disclose a panel unit as described in claim 1 where the siding panel substantially abuts and wraps around a tip of the backing portion adjacent to the attachment strip (see Figure 4). Where the attachment strip is a nailing strip and is substantially in the same plane as a rear side of the backing portion (32).

Regarding claims 11, 13, and 14, the applicant claims specific dimensions for the drainage and connector grooves on the backing portion. The dimensions claimed appear to be a design choice developed by basic engineering practices and not a critical aspect of the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art to orientate the drainage grooves approximately 30 degrees from vertical along a length of the plurality of drainage grooves and to have grooves dimensioned at approximately 0.0625 inches deep and 0.01875 inches wide.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al. '500 in view of Bynoe '064 as applied to the above claims, and further in view of U.S. Pat. No. 6,442,912 (Philips et al. '912).

Regarding claim 17, Manning et al. '500 in view of Bynoe '064 disclose a paneling system as described in claims 1 and 12 but does not disclose that the foam backing comprises a chemical adapted to repel insects. Philips et al. '912 disclose a foam backing member comprising an aliphatic and/or aromatic polyurea spray to

prevent insects from entering the substrate. Therefore, it would have been obvious to one of ordinary skill in the art to apply a layer of the spray as taught by Philips et al. '912 to the foam member of Manning et al. '500, as modified, to prevent insects from infesting the foam layer of the panel unit.

Response to Arguments

Applicant's arguments filed June 26, 2006 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to use grooves for connection and

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drainage means in conjunction with siding panels in order to prevent water from being trapped behind the siding panels which would cause, at the very least, mold to grow which would pose a serious health threat to the occupants.

In regards to applicant's argument that, "Sealing an opening is not equivalent to using a chemical to repel insects" (emphasis added by the applicant), are acknowledged. However, by sealing an opening an insect is unable to enter into it, therefore the insect is repelled from the sealed area.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Maguire whose telephone number is 571-272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire
9/13/06


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER